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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,665	09/15/2003	Leroy J. Kloeppner	GEN-011131 CI	1885
30981	7590	05/31/2005	EXAMINER	
King & Jovanovic, PLC 170 College Avenue SUITE 230 HOLLAND, MI 49423			TUCKER, PHILIP C	
			ART UNIT	PAPER NUMBER
			1712	

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,665

Applicant(s)

KLOEPPNER ET AL.

Examiner

Philip C. Tucker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/28/05
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-11, 13, 14, 16-22, 24-27, 30, 32-38, 40-43, 45, 46, 48-59, 61-64, 66, 67 and 69-74 is/are rejected.
- 7) ☒ Claim(s) 7, 12, 15, 23, 28, 29, 31, 39, 44, 47, 60, 65, 68 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 8-11, 13, 14, 16-22, 24-27, 29, 30, 32-38, 40-43, 45, 46, 48-59, 61-64, 66, 67 and 69-74 are rejected under 35 U.S.C. 102(b) as being anticipated by Tonar (5928572).

Tonar teaches an electrochromic system which can be a window or mirror, and comprise similar anodic compounds, cathodic compounds, and solvents (column 8, line 44 – column 9, line 20). A cathodic electroactive material comprising tungsten oxide may be used (see column 14, lines 1-9). Tonar teaches the use of crosslinked polymers in the electrochromic to form a gel, utilizing the same substituents and backbones as in the present invention (see examples). Although, Tonar does not specifically teach that the system is self-healing, Tonar teaches that the gels are free-standing, do not weep, do not succumb to hydrostatic pressure, and avoids haziness or cloudiness (column 7, line 46 – column 8, line 29). The avoidance of haziness and cloudiness would anticipate the means of diminishing undesirable visual irregularities of claim 17. The gels are thus self-healing as in the present invention.

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3. Claims 1-6, 8-11, 14, 16-22, 24-27, 30, 32-38, 40-43, 46, 48-59, 61-64, 67 and 69-74 are rejected under 35 U.S.C. 102(b) as being anticipated by Tonar (5679283).

Tonar teaches an electrochromic system which can be a window or mirror, and comprise similar anodic compounds, cathodic compounds, and solvents (column 5, line 60 – column 6, line 35). Tonar teaches the use of crosslinked polymers in the electrochromic to form a gel, utilizing the same substituents and backbones as in the present invention (see examples). Although, Tonar does not specifically teach that the system is self-healing, Tonar teaches that the gels are free-standing, do not weep, do not succumb to hydrostatic pressure, and avoids haziness or cloudiness (column 5, lines 9-53). The avoidance of haziness and cloudiness would anticipate the means of diminishing undesirable visual irregularities of claim 17. The gels are thus self-healing as in the present invention.

4. Claims 7, 12, 15, 23, 28, 29, 31, 39, 44, 47, 60, 65 and 68 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Applicants amendment and Terminal Disclaimer have overcome the 35 USC 112 and obviousness double patenting rejections. Applicants other arguments are not deemed persuasive. With respect to claim 17, the avoidance of haziness and cloudiness would anticipate the means of diminishing undesirable visual irregularities of

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claim 17. With respect to the self-healing property, the Tonar patents each teach the same functional groups and backbones as in the present invention. Applicant has not shown or given evidence that the polymers of Tonar having the same functional groups as in the present invention would not have self-healing properties. Since such functional groups would have the same properties in Tonar as in the present invention, the polymer gel of Tonar would be self-healing.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C. Tucker whose telephone number is 571-272-1095. The examiner can normally be reached on Monday - Friday, Flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Philip C Tucker
Primary Examiner
Art Unit 1712

PCT-3354